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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,796	12/22/2000	Ariel Cohen	00-162 1496.0047	9162

24319 7590 03/21/2006

LSI LOGIC CORPORATION
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EXAMINER

MEONSKE, TONIA L

ART UNIT	PAPER NUMBER
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2181

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/746,796

Applicant(s)

COHEN ET AL.

Examiner

Tonia L. Meonske

Art Unit

2181

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 10 January 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

In accordance with the Order Returning Undocketed Appeals to Examiner by the Board of Patent Appeals and Interferences, the Examiner's Answer mailed on May 9, 2005 has been vacated. The brief does not contain the following sections: Evidence Appendix and Related Proceedings Appendix. See the attached Order Returning Undocketed Appeal to Examiner for details.

Supervisory
Fritz Fleming
PRIMARY EXAMINER
GROUP 2100

AU2181 3/16/2006

ATTACHMENT TO PAPER No. 031606

1/3

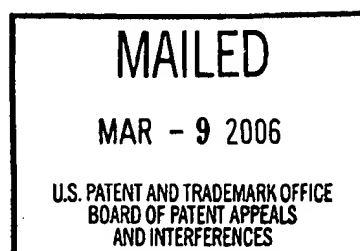
The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ARIEL COHEN,
RONEN PERETS, and
BORIS ZEMIYAK

Application No. 09/746,796



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 2, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on January 10, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c), which states in part:

(ix) Evidence appendix. An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include

copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) Related proceedings appendix. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A review of the application reveals that these two sections are missing from the Appeal Brief. Accordingly, the Appeal Brief filed on January 10, 2005 does not comply with the new rules under 37 CFR § 41.37(c). It is required that a supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Additionally, the "Evidence Relied Upon" section of the Examiner's Answer mailed May 9, 2005 is missing. As stated in the Manual of Patent Examining Procedure § 1207.02 Rev. 3 (August 2005) "Contents of Examiner's Answer:"

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g. patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) hold the Appeal Brief filed on January 10, 2005 defective;
- (2) to notify appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37 or to have the examiner submit a statement regarding the position taken on the missing appendices;

Application No. 09/746,796

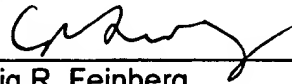
3/3

(3) for the examiner to vacate the Examiner's Answer mailed May 9, 2005, and issue a revised Examiner's Answer correcting "Evidence Relied Upon" section;

(4) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and

(5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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